



August 31, 2009

Mr. Norman Braverman
Department of Emergency Management
Los Angeles County
Kenneth Hahn Hall of Administration
500 W Temple Street, Room 754
Los Angeles, California 90012

SUBJECT: COMPLIANCE REVIEW REPORT
2008-2009 EMERGENCY MANAGEMENT PERFORMANCE GRANT
OES FIPS #037-00000

Dear Mr. Braverman:

The California Emergency Management Agency (CalEMA), formerly the Governor's Office of Emergency Services (OES), conducted a compliance field review on May 19 through May 21, 2009 for the referenced grant. The purpose of the review was to determine if your organization complied with applicable laws, regulations, guidelines and policies.

The grant was reviewed for compliance with the administrative and fiscal requirements as outlined in OES's Recipient Subgrant Guide for Local Governments - Fiscal Year 2008, Office of Management and Budget (OMB) Circulars and the Code of Federal Regulations (CFR). Our scope included reviewing fiscal and accounting records for the grant period July 1, 2008 through April 30, 2009, and its supporting documentation. CalEMA also examined the documentation supporting the required local match expenditures, and several of the program activities.

Executive Summary:

Grant Type:	Emergency Management Performance Grant (EMPG)
Review Type:	Compliance Field Review
Scope:	Fiscal and Administrative
Review Period(s):	July 1, 2008 – April 30, 2009

Findings Summary:

1. Subrecipient is not following federal regulations regarding the calculation and reimbursement of eligible program costs.
2. Subrecipient is withholding reimbursement payments for proper charges incurred by subgrantees.
3. Subrecipient is not following federal regulations regarding monitoring of all pass-through funds.

Following are the detailed Findings resulting from the Compliance Field Review. Findings are discoveries that, within the context of a review process, represent operational deficiencies or errors, material program weaknesses or unacceptable program liabilities that could result in questioned grant costs, or collectively characterize a significant risk to program integrity.

FINDING(S)

Finding #1: Subrecipient is not following federal regulations regarding the calculation and reimbursement of eligible program costs.

Requirement:

44 CFR, Part 13, Subpart C, Section 13.20 describes the methods of payment to grantees. Section 13.20 (b)(1) states, "*Financial reporting. Accurate, current and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant.*" 44 CFR Part 13, Subpart C, Section 13.21(d) states, "...*Reimbursement shall be the preferred method...*"

2 CFR Part 225, Appendix A, General Principles for Determining Allowable Costs for State, Local, and Indian Tribal Governments, Subpart C (j) states, "*costs must be properly documented.*"

OES EMPG Recipient Subgrant Guide for Local Governments FT 2008, Section One – Matching Requirements states, "*The FY08 EMPG requires a dollar-for-dollar match. This can be cash or in kind. Please refer to 44 CFR Part 13, Subpart C, Section 13.24 for specific details.*"

Observation:

Los Angeles County has designated eight Disaster Management Areas (DMACs) via joint powers agreements (JPAs) to carry out the 2008-2009 Emergency Management

Performance Grant. These JPAs require the County to pass through the grant funds based on an allocation or distribution plan which is annually approved by the County Board of Supervisors. The monitors found no evidence that the DMACs were required to invoice or request reimbursement from the County for their expenditures. Practice has been for the County to request reimbursement of the total award from CalEMA, and then disburse the original allocation to each DMAC after the grant period has closed.

During the field review, monitors requested documentation supporting match expenditures related to the grant. The County was only able to supply documented match in the amount of \$477,537, and undocumented match in the amount of \$64,526 from DMAC Area D and \$69,886 from DMAC Area E. The other six DMACs had not reported their local match expenditures for this grant. The total match required for this grant is \$1,303,508; the County was only able to account for a total of \$611,949 in eligible grant match expenditures. Per grant guidelines, the grant award funds available for reimbursement cannot exceed the total documented match expenditures. It should be noted that the grant performance period ended on June 30, 2009, and that the County has since reported it has been able to document and support the remaining required match.

Required Corrective Action:

Please submit a Corrective Action Plan (CAP) which describes how the County will ensure all future grant funds, federal regulations and grant assurances are passed through to the eight DMACs. The plan should also include how both grant funds and local match expenditure requirements will be documented and reported, along with the County's assurance that all future requests for reimbursement will be for funds which have actually been expended. The plan should describe how the County will be in compliance with 44 CFR, Part 13, Subpart C, Section 13.20, and the Cal EMA EMPG Recipient Subgrant Guide for Local Governments FT 2009, Section Four – *Reimbursement of Eligible Costs*. For the 2009 EMPG grant award, the County will be required to submit quarterly reimbursement requests for allowable grant award expenditures not later than 45 days after the end of each calendar quarter.

Finding #2: Subrecipient is withholding payments for proper charges incurred by subgrantees.

Requirement:

44 CFR, Part 13, Subpart C, Section 13.21(g)(1) states, "*Withholding payments. (1) Unless otherwise required by Federal statute, awarding agencies shall not withhold payments for proper charges incurred by grantees or subgrantees...*"

44 CFR, Part 13, Subpart C, Section 13.21(i) states, "*Interest earned on advances. Except for interest earned on advances of funds exempt under the Intergovernmental Cooperation*

Act (31 U.S.C. 6501 et seq.) and the Indian Self-Determination Act (23 U.S.C. 450), grantees and subgrantees shall promptly, but at least quarterly, remit interest earned on advances to the Federal agency. The grantee or subgrantee may keep interest amounts up to \$100 per year for administrative expenses."

Observation:

It was noted that the 2007-08 EMPG request for reimbursement of the total award amount, was paid by OES in September 2008; however, these funds had not been disbursed to the DMACs at the time of the monitoring visit.

Required Corrective Action:

Please submit a CAP which describes by when and how the County will determine and return to CalEMA the amount of interest earned on undisbursed grant funds for the 2007-08 EMPG grant.

Finding #3: Subrecipient is not following federal regulations regarding monitoring of all pass-through funds.

Requirement:

44 CFR Part 13, Subpart C, Section 13.40(a) states, "...Grantees are responsible for managing the day-to-day operations of grant and subgrant supported activities. Grantees must monitor grant and subgrant supported activities to assure compliance with applicable Federal requirements and that performance goals are being achieved. Grantee monitoring must cover each program, function or activity."

OMB Circular A-133, 400 (d), states "Pass-through entity responsibilities. (3) Monitor the activities of subrecipients as necessary to ensure that Federal awards are used for authorized purposes in compliance with laws, regulations, and the provisions of contracts or grant agreements and that performance goals are met."

Observation:

The County has not performed sufficient monitoring of the eight DMAC subgrantees. Without requesting regular performance and expenditure reports, the County is not able to test compliance with the provisions of the grant, nor are there controls in place to ensure compliance. Failure to conduct DMAC area monitoring activities increases the risk of local match expenditures not being met, of disallowed costs not being detected in a timely manner, and of failure to meet program objectives.

The JPAs that the monitors reviewed were quite old and outdated. The County, however, indicated it is taking steps to development formal grant award agreements with the DMACs for the 2009-2010 grant year. A draft copy of a similar grant program agreement was

provided to the monitors for review, with monitors suggesting some minor revisions to the proposed document. It was noted that the implementation of this type of formal grant award agreement with the DMACs will help to remedy some of the County's existing compliance deficiencies on this grant.

Required Corrective Action:

Please submit a CAP which describes by when and how the County will establish and implement subrecipient monitoring of its pass-through grant funds.

ADVISORY RECOMMENDATION(S)

Following are additional Observations and Advisory Recommendations resulting from the compliance review:

- 44 CFR Part 13, Subpart C, Section 13.36 (i) states, "*Contract provisions. A grantee's and subgrantee's contracts must contain provision in paragraph (i) of this section.*" The compliance provisions listed under this Section were missing from the Area B and Area C coordinator contracts. In order to ensure that Los Angeles County's DMAC contracts meet the minimum federal contract language requirement, it is recommended that steps be taken to ensure that future contracts for services include these contract provisions.

If the subrecipient desires to either challenge or disagree with any of the referenced Findings or Advisory Recommendations included in this report, the subrecipient must respond with their written comments to CalEMA, along with inclusive supporting documentation, to the address shown on the CalEMA letterhead, attention Local Assistance Monitoring Branch.

Since there are significant Findings included in this report, formal corrective action is required to ensure all issues are addressed in a timely manner. The attached document, "Subrecipient Corrective Action Procedures" provides detailed instructions for developing the CAP. This CAP should be submitted to CalEMA within 30 days from the date of this letter. You are encouraged to work with your assigned Regional Coordinator, Sonia Brown, to develop your CAP.

Mr. Norman Braverman
August 31, 2009
Page 6

Thank you for the courtesy and cooperation you extended CalEMA in completing this review. If you have any questions about this letter or the enclosures, please contact Don MacMillan at (916) 845-8107, or don.macmillan@calema.ca.gov.

Sincerely,

A handwritten signature in cursive script, appearing to read "Catherine Lewis".

CATHERINE LEWIS
INTERIM BRANCH CHIEF

Enclosure

cc: Peggy Okabayashi, CalEMA Assistant Secretary
Brendan Murphy, CalEMA Grants Management Division
Yvonne Cantrell, CalEMA EMPG Coordinator
Mary Montgomery, CalEMA Southern Region
Sonia Brown, CalEMA Southern Region
Subrecipient File

Subrecipient Corrective Action Procedures

All grants administered by the California Emergency Management Agency (CalEMA) are subject to the many requirements found in federal and state laws, federal regulations (e.g., *Code of Federal Regulations*), federal requirements (e.g., *Office of Management and Budget Circulars*) and state policy guidance. Recipients of these grant funds (referred to as Subrecipients) are also subject to periodic reviews in the forms of audits and monitoring to assure compliance with all applicable requirements. Such reviews often result in the identification of "Findings of Non-Compliance."

"Findings of Non-Compliance" may originate from several different types of reviews, including audits (Office of Management and Budget Circular A-133 or grant-specific), desk compliance reviews and field compliance reviews. Findings are defined as discoveries that, within the context of any review process, represent operational deficiencies or errors, material program weaknesses or unacceptable program liabilities that would probably result in questioned grant costs or, collectively characterize a significant risk to program integrity.

This document provides instructions to Subrecipients (S/R) regarding CalEMA's requirements for corrective action(s) relative to review "Findings." Whenever a Finding is issued against a grant, the Subrecipient is required to formally respond and demonstrate either the S/R's completed or proposed corrective actions. In simple terms, corrective action identifies the "who did what to address the issue?" referenced in the Finding, and "when was it done, or when will it be completed?"

By answering such questions, the S/R develops a Corrective Action Plan (CAP) that provides detailed information for the activities either completed or planned to address the issue(s) referenced in the Finding. In order to expedite this response process, CalEMA has developed a sample plan format with detailed instructions.

For Non-Compliance Findings that have not been resolved, laws and regulations permit the CalEMA and the S/R to enter into a formal compliance agreement that is represented by the S/R's Corrective Action Plan (CAP). An approved CAP allows the CalEMA to suspend enforcement actions for up to 180 calendar days, pending resolution of outstanding Findings. The CalEMA is obligated to resume enforcement actions if a S/R does not resolve the Non-Compliance Findings before the end of the CAP.

In order to determine if the S/R's Corrective Action Plan is sufficient, the CAP must:

- Identify the original Finding(s) of Non-Compliance, including specific identifiers listed in the report (e.g., Finding #1) and the terms of non-compliance.
- Identify the S/R staff responsible for corrective action, including title and complete contact information.
- Describe the specific corrective action taken (or to be taken) for each Finding.
- Show the planned completion date for each major activity.
- Include documentary evidence to verify compliance of Findings that have been resolved.
- Include the signature of an authorized agent of the S/R.

When the CAP is received, CalEMA staff will determine whether the Plan reasonably and sufficiently addresses the Non-Compliance Findings. The CalEMA will notify the S/R if the CAP is approved, or, if further information or documentation is required.

For each Finding where the S/R has proposed planned activities, the CAP must be re-submitted before the ending date (180 days), indicating that planned activities have been completed with a certification that the S/R became compliant, along with the applicable date(s) and documentary evidence to verify compliance.

Please submit the original CAP to:

California Emergency Management Agency
Local Assistance Monitoring Branch
3650 Schriever Avenue
Mather, CA 95655

Please also submit a copy of the CAP to your assigned Regional Coordinator Ms. Sonia Brown. The S/R is encouraged to consult with their assigned Coordinator to develop their CAP.

For electronic submittals, this information may also be e-mailed to don.macmillan@oes.ca.gov.

Subrecipient Corrective Action Plan

Submit an original and one copy of a "Subrecipient Corrective Action Plan" to the California Emergency Management Agency (CalEMA) by no later than 30 days following the monitoring report date based on the Compliance Field Review Report issued by the CalEMA Local Assistance Monitoring Branch, for the following grant(s):

Subrecipient:	Los Angeles County
Grant: EMPG 2008-09	Review Period: July 1, 2008 – April 30, 2009

For each review Finding, please provide the following information:

Finding: <i>(please include any identifiers included in the report, along with citations as appropriate)</i>	
Contact Name & Title: <i>(this is the person(s) responsible for completing resolved or planned corrective action)</i>	Contact Information: <i>(please provide phone number and e-mail address for each contact)</i>
Corrective Action(s): <i>(include specific objectives and activities completed or planned to address the Finding, with actual or estimated dates)</i>	
Objective or Activity:	Date:

Required Signature: The S/R authorized agent certifies that all corrective action(s) have been, or will be, implemented as specified:

Signature of Authorized Agent

Date

Telephone

Name and Title of Authorized Agent